

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of
Connect America Fund; Developing a
Unified Intercarrier Compensation

WC Docket Nos. 10–90, 07–
135, 05–337,
03–109; GN Docket No. 09–51;
CC Docket
Nos. 01–92, 96–45; FCC 11–13

COMMENTS OF THE INFORMATION TECHNOLOGY INDUSTRY COUNCIL

April 18, 2011

INTRODUCTION AND SUMMARY

The Information Technology Industry Council (ITI) represents fifty of the nation’s leading information technology companies, including computer hardware and software, Internet services, and wireline and wireless networking companies. ITI is the voice of the high tech community, advocating policies that advance U.S. leadership in technology and innovation, open access to new and emerging markets, support e-commerce expansion, and enhance global competition.

ITI welcomes the opportunity to provide comments on this matter that is of great importance to the information technology sector and supports the Commission’s proposals to reform the Universal Service Fund (USF) and intercarrier compensation regime (ICC). ITI’s members are at the forefront of developing and manufacturing the technologies and Internet services that are bringing cutting edge broadband innovations to the American public.

As the National Broadband Plan states, broadband is essential for economic growth, job creation, and global competitiveness. Unfortunately, there are approximately 100 million Americans that do not have broadband access at home. As Internet Protocol-based broadband networks displace circuit-switched voice networks, it is critical that the Universal Service system transition to support deployment of this essential service. Access to broadband service will be increasingly necessary for all Americans to compete globally and to fully take advantage of new educational opportunities, basic government services, health care services, and employment opportunities. ITI strongly believes the Commission should move forward on the proposed Connect America Fund (CAF), and transition to a technology-neutral, efficiently distributed system to support broadband deployment.

LEGAL AUTHORITY

I. The Commission has Authority to Support Broadband and Should Not Classify Interconnected VoIP as a Telecommunication Service.

In the proposed rule, the Commission states that it currently has statutory authority to extend universal service support to broadband. ITI agrees with the Commission's statements regarding statutory authority provided by Section 254 of the Communications Act of 1934 and Section 706 of the Telecommunications Act of 1996. The Commission further asks whether interconnected VoIP should be classified as a telecommunications service in order to support networks used to provide VoIP, including broadband networks. ITI strongly believes interconnected VoIP should be classified as an information service, and urges the Commission to take a similar view and make that determination.

Information service providers are appropriately subject to few, if any, of the regulatory provisions of traditional telecommunications services. This is appropriate given the

Commission's stated desire to foster more innovation and choice in market for IP applications and services. Regulation intended for telecommunications services are unlikely to make sense for services created at the application layer.

IP products, services, and applications use open and common protocols on digital packet-switched networks on which traffic is not distance-sensitive or identified by application, location, or device. Costs incurred for originating, terminating or exchanging IP traffic do not depend on distance, time, or the e.164 number that might be associated with the VoIP service. IP-based applications, products, and services enable subscribers to utilize multiple features that access different websites or IP addresses during the same communication session and to perform different types of communications simultaneously. IP calling applications include routing of calls seamlessly to and from a wide variety of devices, including mobile, some of which may be nomadic and some of which may be fixed, but all changeable at the user's discretion. These features neither fit within traditional telephone regulatory requirements under Title II of the Act, nor an intercarrier compensation regime based on the location of the originating and terminating endpoints. The Commission should take this opportunity to make the determination that IP communications services fall outside the traditional telecommunications category.

If the Commission were to declare that interconnected VoIP constituted a telecommunications service, it would be imposing an access charge regime on interconnected VoIP providers, which would, for the first time, be subject to regulated rates for switched traffic. To recover these costs, VoIP providers would likely have to pass through these rate increases to their end users. Rates for IP-enabled voice applications would go up, and innovation in and development of new IP-enabled voice applications would be curtailed. Additionally, new access charges for VoIP could be a barrier for entry into the voice market, thereby limiting competition.

Declaring interconnected VoIP applications ‘information services’ under the Act, would reduce these uncertainties and promote innovation in this area.

THE CONNECT AMERICA FUND

II. The Commission Should Only Support Deployment of High Speed Networks

ITI supports requirements that will result in deployment of advanced networks capable of providing speeds that will allow proper functionality of widely used applications and services.

The Commission has sought comment on whether it should set an initial target of 4Mbps downstream and 1 Mbps upstream for universal service purposes.¹ ITI suggests that at least half of the funding for projects that result in the deployment of wireless or wireline networks should, *initially*, meet these speeds. However, because, as the Commission has recognized, advanced applications such as two-way video conferencing require symmetric speeds of at least 5 Mbps, we encourage the Commission to adopt an approach to universal service funding that allows for flexibility in the definition of what constitutes “broadband” for purposes of universal service.

For the remainder of the funding, ITI maintains the position it has previously stated, that funds should only be dedicated to support deployment of broadband networks capable of delivering at least 1 megabit per second in at least one direction today, transitioning to services of at least 2.5 megabits per second in at least one direction by 2013.

III. Funds Should be Distributed Efficiently and Recipients Should be Determined by Reverse Auctions

The most efficient means for making high-speed broadband service universal and affordable is reliance on market forces, competition, and innovation. Reverse auctions would

¹ Notice at ¶ 109.

allow funds to be distributed in the most efficient manner to subsidize the deployment of broadband networks. Additionally, to promote competition, it is imperative that all high-speed providers of broadband service are allowed to compete on an even playing field regardless of technology.

IV. The Commission Should Consider Additional Methods to Promote Broadband Adoption

ITI urges the Commission to look at other technology-neutral options that could supplement reverse auctions and also spur adoption among those households currently not subscribing to broadband, without growing the overall size of the fund. One such option could be a consumer voucher to households in areas with high rates for a standard monthly broadband subscription.

The consumer could then use that voucher to subscribe to broadband from any available provider that meets certain speed requirements. Additionally, these vouchers could be targeted to lower-income households to incentivize adoption among a population with historically lower adoption rates.

V. The Commission Should Cap the Overall Size of the Fund

To ensure that the fund is economically sustainable, ITI supports a cap on the overall size of the fund that is applied in a competitive and technology neutral manner. The cap should be implemented in a way that minimizes suppression of consumer demand, and does not skew investment toward inefficient legacy copper technologies and against more advanced fiber and wireless technologies.

INTERCARRIER COMPENSATION

VI. Interconnected VoIP Should Not be Subject to Intercarrier Compensation

As stated above, ITI believes interconnected VoIP should be classified as an information service. ICC is fundamentally a carrier-to-carrier relationship and expanding ICC beyond that to an application-to-carrier relationship significantly alters Congress's and the Commission's framework for linking physical access networks. ITI supports the idea of one unified rate structure for all traffic whether it be VoIP or traditional circuit-switched traffic.

CONCLUSION

ITI supports the Commission's steps to reform USF and ICC, and transitioning the USF high-cost fund to support broadband deployment through the CAF. Taking into consideration the above comments, ITI urges the Commission to move forward on creating the CAF in a competitively and technologically neutral manner to facilitate greater broadband deployment and promote the continued investment in innovative services.

Respectfully Submitted,

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